

FILED IN CLERK'S OFFICE
U.S.D.C. - Atlanta

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JAN 03 2011
JAMES N. HATTEN, Clerk
By:  Deputy Clerk

STEVEN HOFFER

Plaintiff,

v.

CIVIL ACTION NO.

CHASE HOME FINANCE, LLC, as
servicer for Bank of America, N.A., as
successor by merger to LaSalle Bank, N.A.,
as trustee for WaMu Mortgage
Pass-Through Certificates Series 2007-OA1
Trust, DOES 1, and all persons unknown,
claiming any legal or equitable right, title,
estate, lien, or interest in the property
described in the complaint named as
"DOES 1,"

Defendants.

1:11-cv-0013

NOTICE OF REMOVAL

Defendant Chase Home Finance, LLC ("Chase") hereby files this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446. In support of this Notice, Chase states as follows:

PROCEDURAL BACKGROUND

1. Plaintiff Steven Hoffer ("Plaintiff") purportedly commenced a civil action against Chase on December 3, 2010 by filing a "Petition to Quiet Title" (the

“Complaint”) in the Superior Court of Gwinnett County, State of Georgia, Civil Action File No. 2010-A-10825-9.

PROCEDURAL PREREQUISITES

2. This Notice of Removal is timely under 28 U.S.C. § 1446(b) because it is being filed within thirty (30) days after Chase first received, through service or otherwise, a copy of Plaintiff’s Complaint in the State Court Action.¹

3. As required by 28 U.S.C. § 1446, true and correct copies of all process and pleadings served upon Chase in the State Court Action are attached hereto as Composite Exhibit A.

4. A removal notice and a copy of the instant Notice of Removal shall be filed with the Clerk of the Superior Court of Gwinnett County, State of Georgia, and shall be served on Plaintiff. A true and correct copy of the removal notice filed with the Clerk of the Superior Court for Gwinnett County, State of Georgia is attached hereto as Exhibit B.

5. Removal to this Court in particular is proper pursuant to 28 U.S.C. §§ 1441 and 1446 because the State Court Action is currently pending in this Judicial District.

¹ Indeed, Plaintiff did not even file his Complaint until December 3, 2010.

DIVERSITY JURISDICTION

6. Removal of this action is proper under 28 U.S.C. § 1332 because the parties' citizenships are fully diverse and the amount in controversy for Plaintiff's claims is more than \$75,000 exclusive of interest and costs.

Complete Diversity of Citizenship

7. Plaintiff is a citizen of Georgia. (Compl. at 1.)

8. Chase Finance is a limited liability company whose sole member is Chase Home Finance, Inc. "[A] limited liability company is a citizen of any state of which a member of the company is a citizen." *Internet Bus. Solutions, Inc. v. Britt Worldwide, LLC*, 4:07-CV-129 HL, 2007 WL 2583718, *1 (M.D. Ga. Sept. 4, 2007) (quoting *Rolling Greens, MHP, L.P. v. Comcast SCH Holdings, LLC*, 374 F.3d 1020, 1022 (11th Cir. 2004)). A corporation is "a citizen of any State by which it has been incorporated and of the State where it has its principal place of business." 28 U.S.C. § 1332. Chase Home Finance, Inc. was incorporated under the laws of Delaware and has its principal place of business in New Jersey. Accordingly, both Chase Home Finance, Inc. and Chase Finance are citizens of New Jersey and Delaware.

9. Accordingly, there exists complete diversity of citizenship between Plaintiff and Chase, the only other named Defendant in the State Court Action.

Amount In Controversy

10. Plaintiff's Complaint does not state the amount in controversy. (*See* Compl.) Plaintiff's Complaint does, however, seek to enjoin Chase from foreclosing on real property located at 584 Cedar Court, Dacula, Georgia 30019 (the "Property").² (*See* Compl. at 2.) Plaintiff purchased the Property on December 31, 2006, at least in part, with a \$ 135,000 loan. (*See* Compl. at 2; Ex. C at 1-3.) Accordingly, the value of the Property exceeds \$75,000.

11. Where a plaintiff seeks injunctive relief related to a foreclosure sale, "the value of the property determines the financial value at stake" for removal purposes. *See Roper v. Saxon Mortg. Servs., Inc.*, No. 1:09-CV312, 2009 WL 1259193, *2 (N.D. Ga. May 5, 2009) (citing *Waller v. Prof'l Ins. Corp.*, 296 F.2d 545, 547 (5th Cir. 1961)). Accordingly, the amount in controversy, based on Plaintiff's allegations and the publicly-available real property records, exceeds \$75,000, exclusive of interest and costs.

WHEREFORE, for the foregoing reasons, Chase respectfully requests that the State Court Action proceed in this Court.

² A true and correct copy of the security deed Plaintiff executed in connection with his purchase of the Property (the "Security Deed") is attached hereto as Exhibit C. The Security Deed secures a promissory note that Plaintiff also executed contemporaneously with his purchase of the Property. (*See* Ex. C.)

Respectfully submitted this 3rd day of January, 2011.

WARGO & FRENCH LLP

A handwritten signature in cursive script, appearing to read "Sharon J. McGinnis", written over a horizontal line.

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Defendants.


CERTIFICATE OF SERVICE

This certifies that I have this day served a true and correct copy of the within
and foregoing **NOTICE OF REMOVAL OF ACTION** upon Plaintiff by U.S.

Mail, postage pre-paid, addressed as follows:

Steven Hoffer, *Pro Se*
400 Peachtree Industrial Boulevard, Suite 5, # 518
Suwanee, Georgia 30024

This 3rd day of January, 2011.


Julie C. Jared